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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,838	09/24/2003	Gregory J. Wood	500800-1015	4426
38406	7590	04/11/2005	EXAMINER	
MICHAEL A. O'NEIL, P.C. 5949 SHERRY LANE, SUITE 820 DALLAS, TX 75225			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 04/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/669,838

Applicant(s)

WOOD ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This is the second office action for application number 10/669,838, Refuse Bag Supporting Device, filed on September 24, 2003.

### ***Drawings***

The drawings were received on November 22, 2004. These drawings are approved.

### ***Response to Amendment***

The indicated allowability of claim 11 is withdrawn in view of the reference(s) to Shanks. Rejections based on the newly cited reference(s) follow.

### ***Cancellation of Claims***

Claims 1, 2, 4-10 and 12 have been canceled per applicant's request.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,076,782 to Alderman in view of U.S. Patent 4,562,983 to Klefbeck. Alderman discloses a refuse bag supporting device comprising: a plurality of refuse bag supporting members (12, 13, 14, 15); a plurality of corner members (16) joining the refuse bag supporting member end to end to define a refuse bag supporting frame (10);

a plurality of legs (21, 22) for positioning the refuse bag supporting frame in a plurality of orientations; means (23) for supporting each of the legs on the frame for pivotal movement with respect thereto between a first orientation wherein the leg extends perpendicularly relative to the frame at a second orientation wherein the leg extends parallel relative to the frame.

Alderman discloses the claimed invention except for the limitation of the legs having a relatively large diameter tubular member and a relatively small diameter tubular member which is slidably received in the relatively large diameter tubular member and a means for selectively retaining each of the legs in extended and retracted configurations. Klefbeck teaches a bag holder having a frame member (10) and a plurality of legs (8) connected to the frame member by a pivotal hinge (12), and wherein the legs each comprise a relatively large diameter tubular member and a relatively small diameter tubular member which is slidably received in the relatively large diameter tubular member; and means for selectively retaining each of the legs in an extending configuration and in a retracted configuration relative to the frame and wherein the means for selectively retaining comprises bayonet connectors (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the legs in Alderman to have included the legs as taught by Klefbeck for the purpose of providing legs that telescope to facilitate the stable use of the device on unlevelled terrain.

Alderman combined with Klefbeck disclose the claimed invention except for the limitation of refuse bag retaining means comprising a plurality of apertures mounted on

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the frame and a plurality of plugs. Shanks teaches a bag supporting device comprising a frame (10), a plurality of legs (12), and refuse bag retaining means comprising a plurality of apertures (the locking ring 28 forms the aperture) mounted on the frame for receiving a refuse bag (Fig. 7, 22) thereover and a plurality of plugs (18) each individual to one of the apertures for securing the refuse bag into engagement therewith. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in Alderman combined with Klefbeck to have included the refuse bag retaining means as taught by Shanks for the purpose of ensuring that the mouth of the refuse bag is held open when in a hanging position for filling with refuse.

***Allowable Subject Matter***

Claim 3 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: the primary reasons for the indication of allowable subject matter in claim 3 are the limitations of a refuse bag supporting device including means for selectively retaining a plurality of legs in an extended configuration and in a retracted configuration relative to a frame, means for pivotally supporting the legs on the frame comprising a plurality of L-shaped members each extending between one of a plurality of corner members of the frame and one of the legs, at least one of the L-shaped members supporting one of the legs relatively outwardly with respect to the frame, and wherein at least one of the L-shaped members supporting one of the legs relatively inwardly with

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respect to the frame, now included in independent claim 3 and in combination with the other elements recited in claim, which is not found in the prior art of record.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,174,085 to Ferreira et al.

U.S. Patent 4,273,167 to Stillwell

U.S. Patent 4,810,031 to Patterson

U.S. Patent 5,016,844 to Garvin

U.S. Patent D325,798 to Montrose et al.

U.S. Patent D326,172 to Bieselee et al.

U.S. Patent 5,195,649 to Wolters

U.S. Patent D396,917 to McCray, Jr.

U.S. Patent 6,164,607 to Hawkes

U.S. Patent D447,845 to Neil

U.S. Patent 6,511,026 to Hatfield


Ferreira et al. disclose a collapsible trash bag holder. Stillwell discloses a trash bag holder. Patterson discloses a combination portable seat and trash container. Garvin discloses an open top trash bag holder. Montrose et al. disclose a rack for disposable trash bags. Bieselee et al. disclose a bag holder. Wolters discloses a treadle top container for refuse. McCray, Jr. discloses a garbage bag support. Hawkes discloses

an adjustable portable bag holder. Neil discloses a flexible bag support. Hatfield discloses a bag opener support apparatus including a frame and a plurality of legs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday. Note starting April 8, 2005 the examiner may be reached at (571) 272-6817.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156 and after April 8, 2005 can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anita M. King  
Primary Examiner  
Art Unit 3632

March 30, 2005